

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**  
**DUSHAWN SEAN HOWARD,**

**Plaintiff,**

**9:20-cv-264  
(GLS/DJS)**

**v.**

**SHERIFF D. DAGOSTINO et al.,**

**Defendants.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Dushawn Sean Howard  
Pro Se  
19-A-2588  
Clinton Correctional Facility  
P.O. Box 2001  
Dannemora, NY 12929

**FOR THE DEFENDANTS:**

*D. Dagostino & Cufari*  
Goldberg Segalla, LLP

8 Southwoods Boulevard  
Suite 300  
Albany, NY 12211-2526

*John Mc Phillips*  
Phelan, Phelan & Danek, LLP  
300 Great Oaks Blvd  
Suite 315  
Albany, NY 12203

**Gary L. Sharpe**  
**Senior District Judge**

JONATHAN M.  
BERNSTEIN, ESQ.  
JAMES F. FAUCHER, II, ESQ.

TIMOTHY S. BRENNAN, ESQ.  
KATRINA NICOLE VOLLMER,  
ESQ.

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge Daniel J. Stewart, duly filed January 19, 2022. (Dkt. No. 43.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections<sup>1</sup> having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Report-Recommendation (Dkt. No. 43) is **ADOPTED** in its entirety; and it is further

**ORDERED** that defendants' motions for summary judgment (Dkt. Nos. 23, 31) are **GRANTED**; and it is further

**ORDERED** that the amended complaint (Dkt. No. 7) is **DISMISSED**; and it is further

**ORDERED** that the Clerk is directed to close this case; and it is further

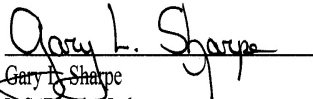
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<sup>1</sup> After being granted additional time to file objections, (Dkt. No. 45), plaintiff filed a "Notice of Motion for Reargument." (Dkt. No. 46.) To the extent that document can be construed as objections to the R&R, it lacks any argument whatsoever and triggers error for clear error review only. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at \*5-6 (N.D.N.Y. Jan. 18, 2006).

**ORDERED** that the Clerk provide a copy of this Order to the parties  
in accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

March 15, 2022  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge